



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

NOV 0 2 2016

Mr. Mike Allen
Supervisor of Public Services
Town of Farmerville Waste Water Treatment Plant
P.O. Box 427
Farmerville, LA 71241-0427

Re: Complaint and Consent Agreement and Final Order (CAFO) and
Administrative Order on Consent (AOC)
Docket No. CAA-06-2016-3502

Dear Mr. Allen:

Enclosed for your records is a copy of the fully executed Complaint and Consent Agreement and Final Order and AOC for the Clean Air Act Section 112(r) violations found at the Town of Farmerville Waste Water Treatment Plant facility located in Farmerville, Louisiana. Please note that if you have not yet paid the assessed penalty, payment is due no later than 30 days after the date it was signed by the Regional Judicial Officer.

If you have any questions regarding this matter, please do not hesitate to call. I may be reached by phone at (214) 665-6708 or by email at rogers.elizabeth@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Rogers".

Elizabeth Rogers
RMP Enforcement Officer
Planning and Prevention Team
USEPA - Region 6

Enclosure

ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
2016 NOV -2 PM 12: 21
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF:

TOWN OF FARMERVILLE

Respondent

Farmerville, Louisiana

**CONSENT AGREEMENT AND FINAL
ORDER**

EPA DOCKET NO. CAA-06-2016-3502

CONSENT AGREEMENT AND FINAL ORDER

The Director of the Superfund Division of the United States Environmental Protection Agency (EPA), Region 6 (Complainant), and Town of Farmerville (Respondent), in the above-referenced proceeding, hereby agree to resolve this matter through the issuance of this Consent Agreement and Final Order (CAFO).

I. PRELIMINARY STATEMENT

1. This proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act, as amended (CAA or the Act), 42 U.S.C. § 7413(d), is simultaneously commenced and concluded by the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3).
2. This CAFO serves as notice to Respondent pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34.
3. For the purposes of this proceeding, the Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations or conclusions of law contained in this CAFO.
4. Respondent consents to the issuance of this CAFO, and consents to the assessment and

payment of the stated Federal civil monetary penalty in the amount and by the method set out in this CAFO. Respondent consents to all of the terms and conditions specified in this CAFO.

5. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order set forth herein.

6. Respondent waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

7. Compliance with all the terms and conditions of this CAFO shall only resolve the Respondent's liability for civil penalties for those violations which are set forth herein.

8. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this CAFO.

9. Nothing in this CAFO shall be construed to prevent or limit EPA's civil, injunctive, and criminal authorities, or that of other Federal, state, or local agencies or departments to obtain penalties or injunctive relief under Federal, state, or local laws or regulations.

10. Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement, to execute it, and to legally bind that party to it.

11. This CAFO shall apply to and be binding upon the Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

II. STATUTORY AND REGULATORY BACKGROUND

12. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that the objective of the regulations and programs authorized under Section 112(r) shall be to prevent the accidental release of regulated substances or other extremely hazardous substances and to minimize the

consequences of any such release that does occur.

13. Pursuant to CAA § 112(r)(7), 42 U.S.C. § 7412(r)(7), the Administrator is authorized to promulgate regulations dictating release prevention, detection, and correction requirements.

14. On June 20, 1996, the EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the Act.

15. Under 40 C.F.R. § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process ("Covered Process"), as determined under 40 C.F.R. § 68.115, shall comply with the requirements of 40 C.F.R. Part 68 no later than the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which a regulated substance is first listed under Section 68.130; or (3) the date on which a regulated substance is first present above a threshold quantity in a process.

16. Under 40 C.F.R. § 68.12(a), an owner or operator of a stationary source subject to Part 68 requirements must submit a Risk Management Plan ("RMP") as provided in 40 C.F.R. Part 68 Subpart G (§§ 68.150-68.185) that reflects all covered processes at the stationary source.

17. 40 C.F.R. Part 68 provides general requirements applicable to owners or operators of a stationary source subject to Part 68. It also establishes requirements that apply to an owner or operator based on whether the stationary source operates processes subject to one of three "Programs" -- Program 1, Program 2, and Program 3.

18. Under 40 C.F.R. § 68.12(c), the owner or operator of a stationary source with a process subject to the "Program 2" requirements of the Part 68 regulations, as determined pursuant to 40 C.F.R. § 68.10(c), must comply with the chemical accident prevention requirements of 40 C.F.R. Part 68, Subpart C (Program 2 Prevention Program, at 40 C.F.R. §§ 68.48-68.60).

19. Under Sections §§ 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) & 7413(d)(1)(B), whenever the Administrator finds that any person has violated or is violating a requirement of the CAA including, but not limited to, a requirement or prohibition of any rule promulgated under the CAA, other than those requirements specified in Sections 113(a)(1), 113(a)(2) or 113(d)(1)(A) of the CAA, 42 U.S.C. § 7413(a)(1), 7413(a)(2), or 7413(d)(1)(A), the Administrator may issue an order assessing a civil administrative penalty.

20. As adjusted by the Civil Penalty Inflation Adjustment Rule of December 11, 2008 (73 Fed. Reg. 75340, 75346), 40 C.F.R. § 19.4, the Administrator may assess a civil penalty of up to \$37,500 per day of violation for a violation occurring after January 12, 2009.

21. "Covered process" is defined in 40 C.F.R. § 68.3 as a process that has a regulated substance present in more than a threshold quantity as determined under § 68.115.

22. "Person" is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

23. "Process" is defined in 40 C.F.R. § 68.3 as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

24. "Regulated Substance" is defined in 40 C.F.R. § 68.3 as any substance listed pursuant to Section 112(r)(3) of the CAA as amended, in § 68.130.

25. "RMP" is defined in 40 C.F.R. § 68.3 as the risk management plan required under subpart

G of 40 C.F.R. Part 68.

26. “Stationary source” is defined in Section 112(r)(2)(C) of the CAA and 40 C.F.R. § 68.3 as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

27. “Threshold quantity” is defined in 40 C.F.R. § 68.3 as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA as amended, listed in § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

28. “Owner or operator” shall mean any person who owns, leases, operates, controls, or supervises a stationary source.

29. Section 113(d)(1) of the CAA, 42 U.S.C. §7413(d)(1) authorizes EPA to bring an administrative action for penalties that exceed \$320,000¹ and/or the first alleged date of violation occurred more than twelve (12) months prior to the initiation of the action, provided that the Administrator and the United States Attorney General jointly determine that the matter is appropriate for administrative action.

30. EPA and the U.S. Department of Justice have jointly determined that this matter is appropriate for administrative resolution, including the assessment of a civil penalty.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

¹ The maximum penalty that can be assessed (without a waiver) under Section 113 of the Clean Air Act was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$220,000 for violations occurring between January 30, 1997 and March 15, 2004, to \$270,000 for violations occurring between March 15, 2004 and January 12, 2009, to \$295,000 for violations occurring between January 12, 2009 and December 6, 2013, and to \$320,000 for violations occurring after December 6, 2013.

A. PRELIMINARY ALLEGATIONS

31. Respondent is a municipality, and is thus a “person” as defined in Section 302(e) of the CAA.

32. Respondent owns and/or operates a wastewater treatment plant (NAICS Code 22132), located at 550 Downsville Street, Farmerville, Louisiana 71241 (the “Facility”).

33. The Facility is a “stationary source” as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. §7412(r)(2)(C), and 40 C.F.R. §68.3.

34. Respondent produces, process, handles, or stores chlorine (CAS No. 7782-50-5) at the Facility as part of its wastewater disinfectant process (the “Process”).

35. Chlorine is a regulated toxic substance listed in 40 C.F.R. §68.130.

36. At all times relevant to this CAFO, the amount of chlorine in the Process exceeded threshold quantity for chlorine as determined by 40 C.F.R. §§ 68.115 and 68.130.

37. The Process is a “covered process” as that term is defined by 40 C.F.R. §68.3.

38. The Process meets the requirements for Program Level 2, as set forth in 40 C.F.R. § 68.10(c), and must, among other things, comply with the prevention requirements of 40 C.F.R. Part 68, Subpart C.

39. On or about September 17, 2014, EPA representatives conducted an inspection of Respondent’s Facility pursuant to Section 114 of the CAA, 42 U.S.C. § 7414.

B. VIOLATIONS**Count I - Failure to Consider Various Alternative Release Scenarios.**

40. 40 C.F.R. § 68.28(a) requires Respondent to identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process.

41. In its RMP, respondent failed to consider any alternative release scenario for

chlorine, in violation of 40 C.F.R. § 68.28(a).

Count II – Failure to Update Hazard Review.

42. 40 C.F.R. §68.50(d) requires Respondent to update its Hazard Review at least once every five years, or after a major change in process occurs.

43. At the time of the inspection, Respondent had not updated its hazard review since 2005, in violation of 40 C.F.R. § 68.50(d).

COUNT III – Failure to Develop Written Procedures for Mechanical Integrity of Process Equipment.

44. 40 C.F.R. § 68.56(a) requires Respondent to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.

45. At the time of the inspection, Respondent had not established and implemented written procedures to maintain the ongoing integrity of its chlorine tank, in violation of 40 C.F.R. § 68.56(a).

COUNT IV – Failure to Conduct Compliance Audit.

46. 40 C.F.R. § 68.58(a) requires Respondent to conduct a compliance audit at least once every three years to verify that procedures and practices developed under 40 C.F.R. Part 68, Subpart C are adequate and are being followed.

47. At the time of the inspection, Respondent had not conducted a compliance audit since June 2010, in violation of 40 C.F.R. § 68.58(a).

IV. TERMS OF SETTLEMENT

A. CIVIL PENALTY

48. For the reasons set forth above, Respondent has agreed to pay a civil penalty which has been determined in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), which

authorizes EPA to assess a civil penalty of up to twenty-five thousand dollars (\$25,000)² per day for each violation of the CAA. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, it is **ORDERED** that Respondent be assessed a civil penalty in the amount of **FIFTY-SEVEN THOUSAND AND NINE HUNDRED TWENTY-FIVE DOLLARS AND 00/100, (\$57,925.00)**

49. Within thirty (30) days of the effective date of this CAFO, the Respondent shall pay the assessed civil penalty by certified check, cashier's check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6". Payment shall be remitted in one of three (3) ways: regular U.S. Postal mail (including certified mail), overnight mail, or wire transfer. For regular U.S. Postal mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The maximum \$25,000 per day penalty was increased by the Civil Monetary Penalty Inflation Adjustment Rule codified at 40 C.F.R. Part 19 to \$27,500 for violations occurring between January 30, 1997 and March 15, 2004, to \$32,500 for violations occurring between March 15, 2004 and January 12, 2009, and to \$37,500 for violations occurring after January 12, 2009.

For overnight mail (non-U.S. Postal Service, e.g. Fed Ex), the check(s) should be remitted to:

U.S. Bank
Government Lockbox 979077, U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Phone No. (314) 418-1028

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York
ABA - 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fed-wire message should read "D 68010727 Environmental Protection Agency" with a phone number of (412) 234-4381.

PLEASE NOTE: Docket number CAA-06-2016-3502 shall be clearly typed on the check, or other method of payment, to ensure proper credit. If payment is made by check, the check shall also be accompanied by a transmittal letter and shall reference the Respondent's name and address, the case name, and docket numbers of the CAFO. If payment is made by wire transfer, the wire transfer instructions shall reference the Respondent's name and address, the case name, and docket number of the CAFO. The Respondent shall also send a simultaneous notice of such payment, including a copy of the check and transmittal letter, or wire transfer instructions to the following:

Elizabeth Rogers
RMP Enforcement Officer
Superfund Emergency Management Branch (6SF-EP)
U. S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Lorena Vaughn
Regional Hearing Clerk (6RC-1D)
U.S. EPA, Region 6

1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

The Respondent's adherence to this request will ensure proper credit is given when penalties are received by EPA and acknowledged in the Region.

50. The Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

51. If Respondent fails to submit payment within thirty (30) days of the effective date of this Order, Respondent may be subject to a civil action to collect any unpaid portion of the assessed penalty, together with interest, handling charges and nonpayment penalties as set forth below.

52. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

53. EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. *See* 40 C.F.R. § 13.11(c). Should a penalty

charge on the debt be required, it shall accrue from the first day payment is delinquent. *See* 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

54. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to, attorney fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

55. This CAFO is considered a "prior violation" for the purpose of demonstrating a "history of noncompliance" under the Clean Air Act Stationary Source Penalty Policy and the Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68 (June 2012).

B. RETENTION OF ENFORCEMENT RIGHTS

56. The EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.

57. Nothing in this CAFO shall relieve the Respondent of the duty to comply with all applicable provisions of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68.

58. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from the Respondent's facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of

other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under Federal, State, or local laws or regulations.

59. The Complainant reserves all legal and equitable remedies available to enforce the provisions of this CAFO. This CAFO shall not be construed to limit the rights of the EPA or United States to obtain penalties or injunctive relief under the Clean air Act or under other federal or state laws, regulations, or permit conditions.

60. In any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other appropriate relief relating to this Facility, the Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, re judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Complainant or the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

61. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The Complainant does not warrant or aver in any manner that the Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act or with any other provisions of federal, State, or local laws, regulations, or permits.

C. COSTS

62. Each party shall bear its own costs and attorney's fees. Furthermore, the Respondent

specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17.

D. EFFECTIVE DATE

63. This CAFO becomes effective upon filing with the Regional Hearing Clerk.

RECEIVED SUPERFUND DIVISION U.S. EPA REGION 6
16 OCT 18 AM 8:13

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 10-12-16

Mike Allen
Mike Allen
Supervisor of Public Services
Town of Farmerville WWTP

FOR THE COMPLAINANT:

Date: 10/26/16

Carl E. Edlund, P.E.
Carl E. Edlund, P.E.
Director
Superfund Division
U.S. EPA - Region 6

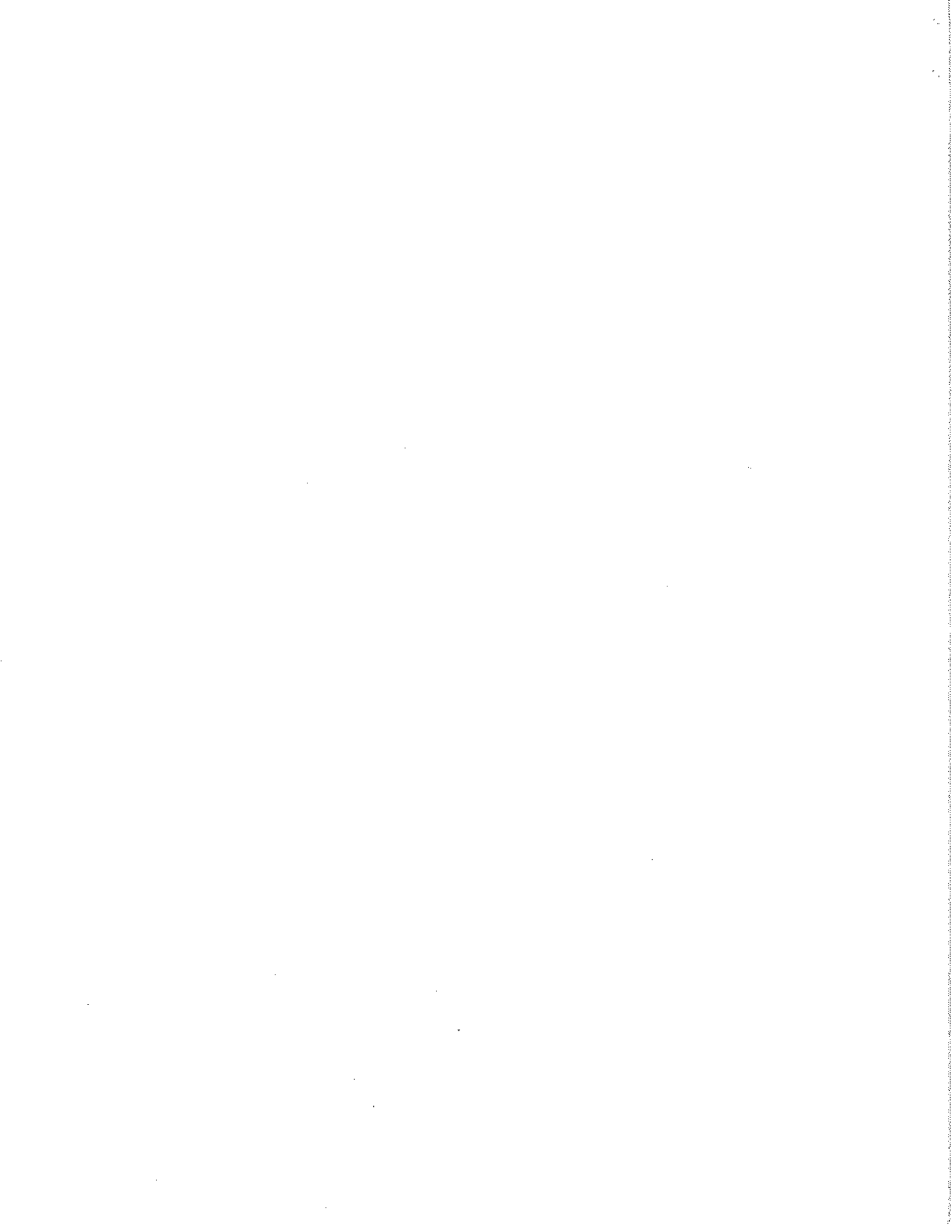
V. FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated

10/27/16

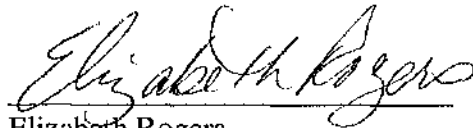
Regional Judicial Officer
U. S. EPA, Region 6



CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of ~~September~~^{November} 2016, the original of the foregoing Final Order of Clean Air Act, Section 112(r) Expedited Settlement Agreement was hand-delivered to the Regional Hearing Clerk, U. S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, first class postage prepaid, addressed to the following:

Mr. Mike Allen
Supervisor of Public Services
Town of Farmerville WWTP
P. O. Box 427
Farmerville, LA 71241



Elizabeth Rogers
RMP Enforcement Officer
Emergency Management Branch
US EPA - Region 6

